

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

KIMBERLEY VOGT	§	
v.	§	CIVIL ACTION NO. 6:11CV62
UNITED STATES OF AMERICA	§	

ORDER ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE

The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of this case has been presented for consideration. The [Report and Recommendation](#) recommends that the Motion to Dismiss and/or Motion for Summary Judgment Dismissing Plaintiff's Complaint (document [#19](#)) be granted and that Plaintiff's claims be dismissed with prejudice, with the exception of her claim against the United States pursuant to 26 U.S.C. § 7422 which should be dismissed without prejudice to the refiling thereof. Plaintiff filed [written objections](#) to the Report and Recommendation on October 19, 2011. A [response](#) was filed by the United States of America on October 27, 2011.

Having made a *de novo* review of the written objections filed by Plaintiff, the Court finds that the findings and conclusions of the Magistrate Judge are correct and the objections are without merit. The Court, therefore, adopts the findings and conclusions of the Magistrate Judge as those of the Court.

In light of the foregoing, it is

ORDERED that the Motion to Dismiss and/or Motion for Summary Judgment Dismissing Plaintiff's Complaint (document [#19](#)) is **GRANTED**. Plaintiff's claims are **DISMISSED** with prejudice, with the exception of her claim pursuant to 26 U.S.C. § 7422 which is **DISMISSED** without prejudice. Any motion not previously ruled on is **DENIED**.

SIGNED this 14th day of November, 2011.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE